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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,040	10/24/2003	Wayne E. Prentice	86100SHS	1525
7590 Thomas H. Close Patent Legal Staff Eastman Kodak Company 343 State Street Rochester, NY 14650-2201			EXAMINER CHU, RANDOLPH I	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 01/22/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/693,040

Applicant(s)

PRENTICE ET AL.

Examiner

RANDOLPH CHU

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF 108)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

2. In response to applicant's amendment received on October 14, 2008, all requested changes to the claims have been entered.

Response to Argument

3. Applicant's arguments filed on October 14, 2008 have been fully considered but they are not persuasive.

Applicant's argue on pages 5-6 of the response that the Photoshop and Flash MX are sold under different family and they have different function.

The examiner agree that they are made for different purpose. But Photoshop 8.0 cs (released in 7/30/2003) and Flash mx 2004 (released in September 9, 2003) are intergratable each other.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent¹ and recent Federal Circuit decisions² indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example the image optimizing method including steps of modifying, providing, selecting, ensuring, defining, limiting and computing is of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

¹ *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

² *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. With respect to claim 1, lines 14-20, Applicant claimed "ensuring the video loop continuously follows a path through the useful ranges of each of the two or more one-dimensional image characteristic controls from a nominal state through a transition state and back to the nominal state; and defining the entire length of the path in the transition state according to different useful range values of each of the two or more one-dimensional image characteristic controls", but this subject matter was not described in the specification. Also, "nominal state" was described in paragraph [0032] but, the examiner could not find description of "transition state".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3, 4, 9 and 10 are rejected under 35 USC 103(a) as being unpatentable over Using Adobe Photoshop 5 in view of Macro media Flash MX (R. Chrissy, 2002).

With respect to claim 1, Using Adobe Photoshop 5 discloses, a) modifying two or more one-dimensional image characteristic controls using a single loop position controller having one-dimensional control, wherein the single loop position controller traverses useful ranges of each of the two or more one-dimensional image characteristic controls (Figure 26.1, page 536, Saturation; by definition in color theory, In an RGB color space, saturation can be thought of as the standard deviation σ of the color coordinates R (red), G (green), and B (blue).)

b) providing a video loop of captured images to a user by cycling through several combinations of the two or more one-dimensional image characteristic controls(Figure 26.1, page 536, with Preview box checked, if controller is moved back and forth by operator, it will have video loop effect) and

c) a means of selecting a desired image rendered according to the two or more one-dimensional image characteristic controls (Figure 26.1, page 536, OK button).

Using Adobe Photoshop 5 does not teach expressly that video loop is perceptually continuous from video stream without any user intervention.

Macro media Flash MX teaches that video loop is perceptually continuous from video stream without any user intervention (Creating a Shape Tween. 7. Choose Control > Loop Playback, Flash will play the animation repeatedly).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to play animation repeatedly in the method of Using Adobe Photoshop 5.

The suggestion/motivation for doing so would have been that video can be played repeatedly with single convenient GUI function

Therefore, it would have been obvious to combine Macro media Flash MX with Using Adobe Photoshop 5 to obtain the invention as specified in claim 1.

With respect to claim 3, Using Adobe Photoshop 5 discloses selecting a desired image includes stopping the video loop at the desired image (Figure 26.1, page 536, with Preview box checked, if controller is moved back and forth by operator, it will have video loop effect and operator can stop whenever desired image is reached).

With respect to claim 4, Using Adobe Photoshop 5 discloses selecting a desired image includes moving the single loop position controller to the desired image (Figure 26.1, page 536, with Preview box checked, if controller is moved back and forth by operator, it will have video loop effect and operator can stop whenever desired image is reached).

With respect to claim 9, Using Adobe Photoshop 5 teaches providing an original image adjacent to the video loop of captured images (prior to open up image characteristic controls tool, copy of original image can be displayed adjacent to video loop of captured images).

With respect to claim 10, please refer to rejection for claim 1.

7. Claims 2, 5, 6, 7, 11 and 12 are rejected under 35 USC 103(a) as being unpatentable over Using Adobe Photoshop 5 in view of Macro media Flash MX (R. Chrissy, 2002) in further view of Ono et al. (US 6,295,136).

With respect to claim 2, Using Adobe Photoshop 5 and Macro media Flash MX teaches all the limitations of claim 1 as applied above from which claim 2 respectively depend.

Using Adobe Photoshop 5 Using Adobe Photoshop 5 and Macro media Flash MX does not teach expressly that mapping a set of range-limited image controls onto the single loop position controller.

Ono et al teaches that mapping a set of range-limited image controls onto the single loop position controller (col. 2 line 58 – col. 3 line 18).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to limit the range of control in the method of Using Adobe Photoshop 5.

The suggestion/motivation for doing so would have been that only useful range can be used in image enhancement.

Therefore, it would have been obvious to combine Ono et al. with Using Adobe Photoshop 5 and Macro media Flash MX to obtain the invention as specified in claim 2.

With respect to claim 11, please refer to rejection for claim 2.

With respect to claim 12, please refer to rejection for claim 2.

With respect to claim 5, Using Adobe Photoshop 5 teaches providing a plurality of image characteristic controls for an original image (Figure 26.1, page 536); and c) computing a trajectory path through n-dimensional space to create a set of transitioning images in the video loop (Figure 26.1, page 536, with Preview box checked, if controller is moved back plurality of image characteristic controls and forth by operator, it will have video loop effect in multi dimensional space).

defining a portion of the trajectory path (Fig. 26.1, combined value from 3 controller) through the range- limited n-dimensional space (Fig. 26.1 3 different characteristic, hue, saturation and lightness) having at least one of the plurality of image characteristic controls maintained substantially constant (Fig. 26.1, when one of 3 characteristic is stay in constant) while the trajectory path continues traversing the limiting ranges of remaining image characteristic controls.

Macro media Flash MX teaches that video loop is perceptually continuous from video stream without any user intervention (Creating a Shape Tween. 7. Choose Control > Loop Playback, Flash will play the animation repeatedly).

Using Adobe Photoshop 5 and Macro media Flash MX does not teach b) limiting ranges for the plurality of image characteristic controls according to analysis of space reduction requirements to form a range-limited n-dimensional space.

Ono et al teaches that mapping a set of range-limited image controls onto the single loop position controller (col. 2 line 58 – col. 3 line 18).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to limit the range of control in the method of Using Adobe Photoshop 5.

The suggestion/motivation for doing so would have been that only useful range can be used in image enhancement.

Therefore, it would have been obvious to combine Ono et al. with Using Adobe Photoshop 5 and Macro media Flash MX to obtain the invention as specified in claim 5.

With respect to claim 6, Macro media Flash MX teaches that video loop is perceptually continuous from video stream without any user intervention (Creating a Shape Tween. 7. Choose Control > Loop Playback, Flash will play the animation repeatedly).

With respect to claim 7, Using Adobe Photoshop 5 teaches the video loop is controlled with loop position indicator to find a desired image rendered according to the plurality of image characteristic controls (Figure 26.1, page 536, Operator can move controller back and forth and stopped at desired position).

8. Claim 8 is rejected under 35 USC 103(a) as being unpatentable over Using Adobe Photoshop 5 and Macro media Flash MX in further view of Microsoft Gif Animator.

Using Adobe Photoshop 5 and Macro media Flash MX teaches all the limitations of claim 6 as applied above from which claim 8 respectively depend.

Using Adobe Photoshop 5 and Macro media Flash MX does not the video loop is started and/or stopped with a button.

Microsoft Gif Animator teaches video loop is started and/or stopped with a button (Figure 1, ref label 1).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to start and stop the video loop with a button in the method of Using Adobe Photoshop 5 and Macro media Flash MX.

The suggestion/motivation for doing so would have been that plurality of still image can be played like animation with single convenient GUI function like a button.

Therefore, it would have been obvious to combine Microsoft Gif Animator with Using Adobe Photoshop 5 to obtain the invention as specified in claim 8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randolph Chu whose telephone number is 571-270-1145. The examiner can normally be reached on Monday to Thursday from 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RIC/

/Matthew C Bella/

Supervisory Patent Examiner, Art Unit 2624